

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSEPH P. CARRANZA,

Plaintiff,

-v-

THE CITY OF NEW YORK, *et al.*,

Defendants.

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No. 05 Civ. 10010 (RJS) (JCF)  
ORDER

RICHARD J. SULLIVAN, District Judge:

Before the Court are Plaintiff's objections, pursuant to Rule 72 of the Federal Rules of Civil Procedure, to an October 19, 2006 memo-endorsed order (the "October 19 Order") issued by the Honorable James C. Francis IV, Magistrate Judge.<sup>1</sup> The October 19 Order granted Defendants' October 16, 2006 letter-motion that sought to strike seven Requests for Admissions (the "Requests") served by Plaintiff upon Defendants.

Rule 72(a) and the Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(A), provide that a district court may designate a magistrate judge to hear and decide non-dispositive pretrial matters. The district court shall reverse a magistrate judge's order only where the ruling is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); *see Fielding v. Tollaksen*, 510 F.3d 175, 178 (2d Cir. 2007). An order is "clearly erroneous" if the reviewing court is "left with the definite and firm conviction that a mistake has been committed." *Easley v. Cromartie*, 532 U.S. 234, 242 (2001) (quoting *United States v. U.S.*

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<sup>1</sup> Plaintiff Carranza, who proceeds *pro se*, submitted objections to the October 19 Order by letter dated December 11, 2006, that was addressed to the Honorable Kenneth M Karas, United States District Judge. By memo-endorsed order dated January 23, 2007, Judge Karas construed the instant objections as having been brought pursuant to Rule 72 of the Federal Rules of Civil Procedure. (*See* No. 05 Civ. 10010, Doc. No. 22, Ex. K.) This action was reassigned to the undersigned on October 2, 2007.

*Gypsum Co.*, 333 U.S. 364, 395 (1948)). An order is contrary to law “when it fails to apply or misapplies relevant statutes, case law or rules of procedure.” *Thompson v. Keane*, No. 95 Civ. 2442 (SHS), 1996 WL 229887, at \*1 (S.D.N.Y. May 6, 1996) (internal quotation marks omitted). A party may file objections to the magistrate’s order within ten days of having been served with a copy of that order, and the district judge “must consider timely objections and modify or set aside any part of the order that is clearly erroneous or contrary to law.” Fed. R. Civ. P. 72(a).

For the reasons stated by the Court on the record on May 1, 2009, the Court finds that Magistrate Judge Francis did not clearly err by striking the Requests. Moreover, Plaintiff’s objections were filed nearly two months after Magistrate Judge Francis issued the October 19 Order, and are thus not timely pursuant to Rule 72(a). Accordingly, the Court rejects Plaintiff’s objections and affirms the October 19 Order.

SO ORDERED.

Dated: New York, New York  
May 15, 2009



RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE